



U.S. Department of Justice

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VIA ECF

The Honorable Richard M. Gergel
U.S. District Court for the District of
South Carolina
J. Waties Waring Judicial Center
83 Meeting Street
Charleston, SC 29401

Re: *In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, No. 2:18-mn-02873 (D.S.C.) – Letter Concerning EPA Rule on PFAS in Drinking Water

Dear Judge Gergel:

During the June 2019 Case Management Conference, the Court invited the parties to submit significant developments that may relate to the AFFF multi-district litigation as they occur. See Hr’g Tr. at 25:7-20 (June 21, 2019), ECF 129.

On April 8, 2024, the Administrator of the U.S. Environmental Protection Agency (EPA) promulgated individual Maximum Contaminant Levels (MCLs) under the Safe Drinking Water Act (SDWA) for PFOA and PFOS at 4.0 nanograms per liter (ng/L) or parts per trillion (ppt). The EPA is also promulgating individual MCLs for PFHxS, PFNA, and HFPO-DA at 10 ng/L. In addition to the individual MCLs for PFHxS, PFNA, and HFPO-DA, in consideration of the known toxic effects, dose additive health concerns and occurrence and likely co-occurrence in drinking water of these three PFAS, as well as PFBS, the EPA is finalizing a Hazard Index (HI) of 1 (unitless) as the MCL for any mixture containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS. The *pre*-publication version of this rule, which will be published in the Federal Register, is attached hereto. The rule will be effective 60 days after publication.

These MCLs are separate from EPA’s proposed rule to designate PFOA and PFOS as “hazardous substances” under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which the United States

brought to the Court's attention on August 26, 2022. *See* ECF 2563. They are also separate from EPA's proposed rule under the Resource Conservation and Recovery Act (RCRA), which the United States brought to the Court's attention on February 2, 2024. *See* ECF 4448. EPA has not yet taken final action on those proposals.

Respectfully submitted,

/s/ Marianne F. Kies
Marianne F. Kies
Trial Attorney

cc: Counsel of Record (*via ECF*)